



U.S. DEPARTMENT of STATE

Honduras

Country Reports on Human Rights Practices - [2004](#)

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Honduras is a constitutional democracy, with a president and a unicameral congress elected by separate ballot for 4-year terms. The multiparty political system is dominated by two traditional parties, the Nationalists and the Liberals. In 2001, voters elected Ricardo Maduro of the Nationalist Party president in elections that domestic and international observers judged to be generally free and fair. The Constitution provides for an independent judiciary; however, the judiciary is poorly staffed and equipped, often ineffective, and subject to corruption and political influence.

The Honduran Armed Forces (HOAF) include the army, the air force, and the navy. The Ministry of Public Security oversees police operations, and police are responsible for all internal public security issues. The military are authorized to support law enforcement activities with police upon presidential directive. During the year, nearly half of all military personnel were assigned for most of the time to joint patrols with police to prevent and combat high levels of criminal and gang activity. The civilian authorities maintained effective control of the security forces. Members of the security forces, particularly the police, committed human rights abuses.

The market economy is based primarily on agriculture and, increasingly, on the maquiladora (assembly manufacturing for export) industry. The country has a population of 7.0 million. The Central Bank estimated real economic growth for the year at 4 percent. About two-thirds of the country's households live in poverty, and 45 percent of the population lives on less than \$1.00 (18.65 lempiras) per day.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Members of the police committed extrajudicial killings. Well-organized private and vigilante security forces were believed to have committed a number of arbitrary and summary executions. Human rights groups accused former security force officials and the business community of colluding to organize "death squads" to commit extrajudicial, summary, and arbitrary executions, particularly of youth. Security force personnel beat and otherwise abused detainees and other persons. Prison conditions remained harsh, and detainees generally did not receive due process. There was considerable impunity for members of the economic, military, and official elite. A weak, underfunded, and often corrupt judicial system contributed to human rights problems. Although the courts considered allegations of human rights violations or common crimes against armed forces personnel, with some cases going to trial, there were few, if any, convictions. While no senior government official, politician, bureaucrat, or member of the business elite was convicted of crimes, a number were under investigation during the year. The Government removed or demoted some military officials, police officers, police agents and investigators, and judges from office on corruption and other charges. With the new Criminal Procedures Code in effect and an oral accusatory system, lengthy pretrial detention in new cases was less common than in the past; however, cases from previous years remained subject to delays. On occasion, the authorities conducted illegal searches. Other human rights problems included violence and discrimination against women, child prostitution, abuse of children, discrimination against indigenous people, and trafficking in persons. The Government did not enforce effectively all labor laws. Many workers in the private sector were forced to work unpaid overtime. Child labor was a problem, particularly in rural areas, in the informal economy, and in some export agriculture, but generally not in the export-processing sector.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no politically motivated killings by the Government or its agents; however, members of the security forces were suspected of direct involvement in extrajudicial, arbitrary, and summary killings.

The killing of youths and children by vigilante type groups that may have included members of the security forces continued (see Section 5).

According to Public Ministry figures from the government's morgues in Tegucigalpa and San Pedro Sula, there were 3,685 persons killed in 2003, a figure that almost certainly undercounted the actual number of murder victims. According to the Ministry of Public Security, 2,079 persons were killed between January and July, compared with 2,822 in the same time period in 2003, figures that also undercount the actual number of victims. While statistics varied by institution, and the Ministry of Public Security figures showed a decline, there continued to be a high homicide rate and a very low case closure rate.

In 2002, a group of armed men in a pickup killed five youths in Tegucigalpa, mimicking a 1995 torture and killing of youths. The 1995 case was under consideration by the Inter-American Commission on Human Rights (IACHR) (see Section 1.c.).

During the year, the authorities sought or detained a number of police officials for their involvement in the killings of various individuals, some of whom were minors (see Section 5). On April 16, a court found police officer Juan Carlos "Tiger" Bonilla and three other police officials innocent of a 2002 extrajudicial killing. The Public Ministry appealed that decision; however, on August 17, an appeals court upheld the April 16 ruling.

There were deaths in prison during the year (see Section 1.c.).

On December 6, alleged gang members shot and killed Christian Democratic congressional candidate Luis Armando Genawer Paguada in Tegucigalpa. An investigation was pending at year's end.

There were no developments in the July 2003 killing by unknown assailants of environmental activist Carlos Arturo "Oscar" Reyes in his home.

On March 7, police arrested Marco Tulio Vasquez Juarez and charged him with the November 2003 killing of Jose Daniel Chinchilla Lara, the Vice President of La Central Cooperativas Cafetaleras de Honduras. The case was pending at year's end.

The case of Arlin Daniel Escobar Moli, arrested for the December 2003 killing of priest Guillermo Antonio Salgado was pending at year's end.

At year's end, no suspects had been captured for the 2002 killing of human rights activist Jose Santos Callejas, treasurer of the local office of the national NGO Human Rights Committee (CODEH), in his home near the city of La Ceiba by presumed members of an organized crime gang. The investigation of individual police officers for involvement in Callejas' killing continued at year's end.

At year's end, police had not arrested any suspects for the November 2001 killing of Nationalist Party congressional candidate Angel Pacheco Leon in Valle department.

Approximately 20 active and former military and police officials continued to face criminal charges in various courts during the year for human rights abuses committed during the 1980s. Most officials were accused of illegal detention and murder because disappearance is not a crime under the new or previous criminal codes (see Section 1.b.). On October 19, the Government authorized the Solicitor General to come to an agreement with CODEH on the construction of a monument to those who disappeared in the 1980s. In a speech before human rights NGOs on November 4, President Maduro accepted responsibility on behalf of the Government for human rights abuses in the 1980s and promised to comply with Inter-American Court of Human Rights (IACHR) rulings. Courts do not accept cases if the body of the victim has not been recovered and positively identified. An identified body allows families and human rights organizations to bring a case of suspected human rights abuse to court.

There were no exhumations of clandestine graves during the year. Human rights organizations continued to seek information using grass-roots contacts and other sources outside the Government that would lead to exhumations that would advance prosecutions. Four clandestine grave sites reported by the press in April 2003 still had not been exhumed by year's end.

The Public Ministry continued to be unable to bring new cases involving members of the now-disbanded army Intelligence Battalion 3-16 whom various witnesses, survivors, and former HOAF personnel charged detained, tortured, and killed many of the 184 persons who disappeared during the 1980s (see Section 1.b.).

At year's end, the Public Ministry continued its appeal of a September 10 ruling by a court in Catacamas in favor of Jorge Adolfo Chavez Hernandez, a former member of Battalion 3-16, for the 1998 killing of environmental activist and Catacamas town councilman Carlos Antonio Luna Lopez. Jose Angel Rosa Rosa, arrested in 2002 with Chavez, remained in prison on unrelated environmental charges at year's end. Former security official Jose Marcos Hernandez Hernandez, also charged in the case, is deceased. Two other suspects remained at large. The case, brought by two NGOs in January 2003 to the IACHR, remained pending at year's end.

In March, a court ruled in favor of Jaime Ramirez Raudales, a former member of Battalion 3-16, arrested in August 2003 for the 1988 political killings of social activists Miguel Angel Pavon Salazar and Moises Landaverde Recarte. In July, the Public Ministry appealed the ruling to the San Pedro Sula appeals court, where it was pending at year's end.

At year's end, Trejo was under house arrest, the appeals court had yet to issue a new judgment on the Trejo case, and the

Supreme Court had not yet ruled on the Hernandez case. The case against Hernandez for the 1982 illegal detention and killing of Adan Avilez Funez and Nicaraguan citizen Amado Espinoza Paz was ongoing at year's end.

At year's end, the case continued against Captain Billy Fernando Joya Amendola, former army Chief of Staff Oscar Ramon Hernandez Chavez, Raymundo Alexander Hernandez Santos, and Segundo Flores Murillo for the July 1982 killing of university student Hans Madisson. None of the accused were under arrest at year's end. At year's end, Jose Barrera Martinez, a witness in cases related to Billy Fernando Joya Amendola and Raymundo Alexander Hernandez Santos, was at large despite a pending arrest warrant.

Although bank robberies and car thefts have declined since 2001, violent crime continued to fuel the growth of private, often unlicensed guard services, and of volunteer groups that patrolled their neighborhoods or municipalities to deter crime. Vigilante justice led to the killing of known and suspected criminals, as well as of youth in gangs, street children, and youth not known to be involved in criminal activity (see Section 5). Neighborhood watch groups called Citizen Security Councils (CSCs) originally were authorized by a previous Minister of Public Security, and some of them have been accused of taking the law into their own hands. Human rights activists continued to state publicly their belief that some of the CSCs, as well as private security companies with ties to former military or police officials, were acting as vigilantes or death squads, especially targeting youth, with the tacit complicity of police. Since 2002, by law the Ministry of Public Security has required that all arms, including those of private security firms, have to be registered with the government. On March 13, security forces of the Agro Oriental company allegedly shot and killed Cesar Virgilio Pinot. An investigation into his death was pending at year's end.

Several alleged "killings for hire" occurred during the year, usually related to land disputes or criminal activities.

Three suspects were in jail and three remained at large in the 2001 killing of community leader and environmental activist Carlos Roberto Flores in Olancho.

The 2000 complaint filed by Casa Alianza with the IACHR regarding the illegal detention and killing by police of four youths in 1995 (known as the four cardinal points case) remained under investigation by the Commission at the end of the year. In 2002, Casa Alianza filed a complaint regarding a 1998 case for the torture and killing of two minors in Progreso in which police were suspected of involvement. Casa Alianza had a total of six cases before the Commission; agreements were reached in two of these cases, and four cases were pending at year's end.

As of October 31, the Ministry of Public Security reported that gang members killed at least 6 police officers during the year.

b. Disappearance

There were no reports of politically motivated disappearances.

In cases where significant information is available, but no body has been identified, the Public Ministry's Human Rights office attempted to uncover evidence that could lead to clandestine graves. At year's end, an investigation continued into the involvement of former military officers Carlos Roberto Velasquez Ilovaes and Mario Raul Hung Pacheco in the 1988 illegal detention of student activist Roger Samuel Gonzales Zelaya, whose body has not been found.

There were no exhumations during the year. The courts adjudicated some pending cases involving political disappearances from the 1980s as murders (see Section 1.a.).

As of August, according to the Ministry of Public Security, there had been 4 kidnappings for ransom during the year, compared to 9 in 2003 and 22 in 2002.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits torture and other cruel treatment; however, there were isolated instances in which officials employed such practices. In addition, police beatings and other alleged abuses of detainees remained problems.

In the cases of those accused of the 1982 illegal detention and torture of six university students: At year's end, the Public Ministry's appeal to the Supreme Court of the May 2003 appeals court ruling that Raymundo Alexander Hernandez Santos must be released from prison was pending; as was the Public Ministry's appeal of the failure of a court to try Juan Blas Salazar Meza him for the attempted killing and detention of all six students, after it had convicted him of illegal detention and sentenced him to 4 years' imprisonment; the courts continued to deny repeated Public Ministry appeals to have the arrest warrant of retired Captain Billy Fernando Joya Amendola reinstated while his case continued, and he remained free on bail; on January 26, charges were dismissed against retired Colonel Juan Evangelista Lopez Grijalba, for whom, along with retired Colonel Julio Cesar Funez Alvarez, arrest warrants had been issued in March 2003 for illegal detention; the Public Ministry's appeal of this decision was pending at the Appeals Court at year's end; retired General Jose Amilcar Zelaya Rodriguez, the owner of the property in the Amarateca Valley of Francisco Morazan Department where the 1982 incidents occurred, was under house arrest at year's end, under charges of complicity; and at year's end, the case continued against Roberto Arnaldo Erazo Paz and Manuel de Jesus Trejo Rosa.

On June 29, the Supreme Court issued an injunction against the dropping of the arrest warrant for and ordered the appeals court to issue a new judgment in the case of retired Major Manuel de Jesus Trejo Rosa, arrested with Raymundo Alexander Hernandez for the 1982 illegal detention and attempted killing of Nelson MacKay Echevarria and Miguel Francisco Carias Medina.

On June 28, a court sentenced former security officials, German Antonio McNeil Ulloa and Juan Blas Salazar Meza to 1 year 7 months in prison for the 1983 illegal detention and torture of student activist Luis Manuel Figueroa Guillen in Choluteca Department.

Prison conditions were harsh and prison security was poor. Prisoners suffered from severe overcrowding, malnutrition, and a lack of adequate sanitation, and allegedly were subjected to various other abuses, including rape by other prisoners. Prison escapes, through bribery or other means, remained a frequent occurrence. While there are no precise statistics, a significant percentage of prisoners are gang members.

Prison disturbances, caused primarily by harsh conditions and intergang violence, occurred throughout the year in the larger facilities of San Pedro Sula, Tegucigalpa, and Choluteca. A number of gang members were killed in prison, some by members of other gangs. Casa Alianza estimated that 98 children and young adults (age 23 and under) were killed in prisons and juvenile detention facilities between 2002 and the end of August. During the year, prison authorities attempted to hold prisoners of opposing gangs in different facilities to reduce intergang tensions and violence. Both the Code of Criminal Procedure and the Law of Rehabilitation of Criminals contain provisions that provide for the transfer of inmates from one prison to another by prison authorities.

On May 17, a fire at the San Pedro Sula prison killed 107 gang members. Some organizations charged that the Government was responsible for the deaths due to negligence, and investigations were pending at year's end.

On May 3, the Public Ministry filed criminal charges, ranging from abuse of authority to attempted and actual murder and attempted and actual aggravated murder, against 51 persons, including 19 Preventive Police, 9 Prison Police, 2 Army soldiers, 1 Air Force soldier, 19 prison "trustees" (non-gang member inmates who enforce discipline within the prison), and 1 regular prisoner, for alleged involvement in the deaths of 68 persons in April 2003, at El Porvenir prison near La Ceiba. On May 8, the judge in the case approved "watched freedom" (akin to a mild version of office or house arrest) for 39 persons, provisionally dismissed cases against 5 persons (2 Preventive Police, 2 soldiers, and the regular prisoner) with the Public Ministry's concurrence, and closed a case against 1 "trustee" who had been killed. The judge also issued arrest warrants for those persons who failed to present themselves in court to face the charges. Among the problems the Public Ministry encountered during this investigation were missing evidence, shell casings found at the crime scene that did not match the weapons later given to the Public Ministry by police, and allegations that prison records were altered. In addition, prison authorities did not follow proper legal procedures in transferring Mara 18 gang members to the La Ceiba prison. In December, Deputy Warden Oscar Sanchez, who was in charge at the time of the incident, was convicted of murder and attempted murder and faced a minimum sentence of 25 years in prison.

More often than not, for lack of alternative facilities, wardens held the mentally ill, although there was a National Mental Hospital with drug and alcohol rehabilitation, and those with tuberculosis and other infectious diseases, among the general prison population. Human rights organizations accused prison officials of using excessive force against prisoners, including beatings, as well as isolation and threats. In the past, the National Human Rights Commission and the Special Prosecutor for Human Rights accused prison officials of using electric shocks and immersion in water.

Male prisoners with money routinely bought private cells, decent food, and permission for conjugal visits, while prisoners without money often lacked basic necessities, as well as legal assistance. The prison system budgeted approximately \$0.48 (9 lempiras) per day for food and medicine for each prisoner. Prisoners were allowed visits and in many cases relied on outside help to survive, since the prison system did not provide adequate food.

The NGO CODEH continued government-funded programs to train Prison Police and other personnel to avoid committing acts of torture, to train and rehabilitate prisoners, and to arrange for periodic inspections of prisons. The Center for the Prevention, Treatment, and Rehabilitation of Victims of Torture and Their Families provided health and social services to prisoners in the main penitentiary in Tamara.

Women generally were held in separate facilities under conditions similar to those of male prisoners; however, female prisoners did not have conjugal visit privileges. Four percent of the prison population was female. Children up to age 2 can live with their mothers in prison.

The Government operated juvenile detention centers in Tamara (one for boys and one for girls), El Carmen (for boys) in San Pedro Sula, and Jalteva (for boys) near Tegucigalpa. According to the Government, as of August, there were 399 children at these four centers. Although there was a lack of juvenile detention facilities, minors were detained infrequently in adult prisons. In 2002, Casa Alianza reported that the Government responded quickly to complaints of minors in adult prisons and no longer routinely held juvenile offenders in adult prisons. In 2001, the Government and Casa Alianza agreed to earmark \$182,000 (3 million lempiras) compensatory payments under an IACHR agreement to assist juvenile offenders. Only 23 of the approximately 300 (out of an initial list of approximately 800) juvenile offenders who served time in adult prisons from 1995 to 1999 were compensated. On October 19, the Government authorized the Solicitor General to come to an agreement with Casa Alianza on

the resolution of the legal details related to government responsibility for these actions so that IHNFA can use the remaining money for juvenile detention centers.

At year's end, negotiations between the Government and Casa Alianza were ongoing related to the Casa Alianza complaint to the Inter-American Court of Human Rights regarding four minors tortured in a Comayagua prison in 1995.

Pretrial detainees generally were not separated from convicted prisoners. According to the Government, as of December, the 24 penal centers held over 10,931, the vast majority of them men, despite the fact that the capacity of these centers was for approximately 7,000. Of these 6,792 were pending trial and 4,139 had been convicted (see Section 1.d.). An additional approximately 11,000 persons were under house arrest.

The Government generally permitted prison visits by independent human rights observers and such visits occurred during the year.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention; however, the authorities occasionally failed to observe these prohibitions.

The Ministry of Public Security oversees police operations (Preventive Police, DGIC, Transit Police, Tourist Police, and Prison Police), and police are responsible for all public security issues. Police were underfunded, undertrained, and understaffed, and corruption was a serious problem. According to the Ministry of Public Security, from 2000 through August, 186 police had been prosecuted and 1,344 had been fired for reasons ranging from incompetence to corruption. There was widespread public concern at the inability of the security forces to prevent and control crime. During the year, police and military continued to patrol jointly the streets, however petty crime remained relatively high. The joint patrols were suspended temporarily and resumed before the end of the year. Gang violence and intimidation on the streets remained a serious problem, and gangs continued to intimidate, threaten, and rob passengers on public transportation, causing the government to station security officers on many public buses. While investigation into crimes improved during the year, the public continued to believe that corrupt security personnel were complicit in the high crime rate (see Section 1.a.). Despite continued attention to the problem by the Government, perpetrators of killings against youth and minors, including in some instances police, continued to act with impunity.

The Internal Affairs office investigates allegations of illegal activities against members of the police force, including the Preventive Police and the DGIC. The Internal Affairs office reports to the Attorney General's office, which decides whether to prosecute the offender or to return the case to the Minister of Public Security for administrative action. The Preventive Police and the DGIC each have an Office of Professional Responsibility (OPR), which conduct internal reviews of police misconduct such as off-duty criminal conduct and ethics violations. An OPR ruling is reported to the Minister of Public Security, who can take disciplinary action or direct a supervisor to decide upon disciplinary action for minor infractions.

The law states that police may arrest a person only with a court order, unless the arrest is by order of a prosecutor, made during the commission of a crime, or when there is strong suspicion that a person has committed a crime and may try to evade criminal prosecution, or is caught with evidence related to a crime. Police must clearly inform the person of the grounds for the arrest. The Preventive Police detain suspects and can investigate only misdemeanors, unless the DGIC is not available, in which case the law allows the Preventive Police to investigate misdemeanors and felonies. Police must bring a detainee before a competent authority within 24 hours; a prosecutor has 24 hours to decide if there is probable cause for an indictment. If a prosecutor decides to indict a suspect, the prosecutor presents an indictment before a judge, who then has 24 hours to decide whether to issue a temporary detention order that can last up to 6 days. Within this time period, a pretrial hearing must be held for the judge to examine probable cause and make a decision on whether or not pretrial detention should continue. Under the Criminal Procedures Code, bail is available for felonies and prisoners have access to family members.

Lengthy pretrial detention was a serious problem; in 2002, an estimated 88 percent of the prison population awaited trial. The law mandates the release from prison of any detainee whose case has not come to trial and whose time in detention exceeds the maximum prison sentence for the crime of which he is accused. However, the antiquated criminal justice system, judicial inefficiency and corruption, and lack of resources clogged the criminal system with pretrial detainees, many of whom already have served time in prison equivalent to the maximum allowable for the crime of which they were accused. The new Criminal Procedures Code limits pretrial detention to 1 year if the greatest penalty for a crime is less than 6 years and to 2 years if the penalty for the crime is 6 years or greater. The Code is not retroactive, so individuals who have already served their sentence but whose case has not been reviewed remain in jail until the judge reviews the case. Many prisoners under the old system remained in jail after being acquitted or completing their sentences, due to the failure of responsible officials to process their releases. The Criminal Procedures Code mandates house arrest until trial of persons over the age of 60 accused of nonfelony crimes, women who are pregnant or lactating, and the terminally ill. In addition, it provides for the use of house arrest in felony cases, depending on the seriousness of the crime as well as the suspect's criminal record and personal history.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, the judiciary was poorly staffed and equipped, often ineffective, and subject to corruption. While the Government respected constitutional provisions in principle, implementation was weak and

uneven in practice. Both the judiciary and the Public Ministry suffered from inadequate funding; low wages and lack of internal controls made judicial and law enforcement officials susceptible to bribery; and powerful special interests still exercised influence and often prevailed in the courts. Elected politicians previously enjoyed constitutional immunity as a privilege of their office.

Congress voted in October 2003, and again on July 27 to amend the Constitution to revoke immunity for executive, legislative, and judicial employees. On December 30, congressionally approved procedures for prosecuting previously immune individuals were published. The Government had argued that new congressional implementing legislation was necessary before cases could be brought against senior officials. On February 19, a court sentenced Congressman Armando Avila Panchame to 20 years' imprisonment for drug trafficking. His conviction marked the first time that a court had convicted a sitting congressman for drug trafficking. In July 2003, authorities arrested Congressman Mauro Caballero and charged him with environmental crimes on public lands; however, he claimed that he owned the lands in question and his immunity was not revoked. Congressman Melvin Tomas Regalado was arrested and charged with improperly influencing decisions leading to the release and flight of the prisoner Amilcar Antonio Portillo in March 2003 and subsequently requested that his immunity be waived. However, his immunity had not been revoked by year's end. On November 25, alternate congressman Abelardo Diaz Escoto was ordered to sweep public streets for failing to comply with a judge's order in a domestic abuse case brought by the mother of his two children. Congressman David Romero Ehler remained in jail awaiting trial for raping his stepdaughter at year's end (see Section 3).

During the past 10 years, the Public Ministry has taken steps to investigate and charge not only military officers for human rights violations, but also recently retired heads of the armed forces for corruption, illicit enrichment, and white-collar crimes, as well as ranking officials of the 3 previous governments for abuses of power, fraud, and diversion of public funds and resources. However, at year's end, very few of those accused had been tried or convicted (see Section 3).

There are 12 appeals courts, 77 courts of first instance with general jurisdiction, and 330 justice of the peace courts with limited jurisdiction. The Supreme Court names all lower court judges. Human rights groups expressed concern that the 8-7 split between the Nationalist and Liberal Parties on the court was not likely to depoliticize Supreme Court rulings. Numerous judges were accused of corruption or impropriety during the year.

In 2003, Congress passed a decree stating that the Supreme Court ruling concerning proposed amendments to the Constitution that would have given Congress unfettered power to interpret the constitutionality of laws that it passes were unconstitutional could not be published; however, the May 2003 Supreme Court ruling still stood at year's end. The Constitution provides for the right to a fair trial. This right continued to improve in practice since implementation of the Criminal Procedures Code. Since the implementation of the new Code, there has been some improvement in the legal system's fairness toward those charged with crimes, and cases have been processed with greater efficiency than under the old system. On November 27, the Government published a provisional strategy for the protection of witnesses and victims in criminal cases.

An accused person is presumed innocent and has the right to an initial hearing by a judge, to bail, to an attorney provided by the State if necessary, and to appeal. The rights of defendants often were not observed under the 1984 Code, under which all stages of the trial process were conducted in writing and, at the judge's discretion, could be declared secret and, thus, even less public than normal.

A public defender program provides assistance to those unable to afford an adequate defense. There are over 232 public defenders that provided free legal services to 45 percent of the prison population in the main national penitentiary in Tamara during the year; however, it is difficult for public defenders to meet the heavy demands of an unautomated, inadequately funded, and labor-intensive criminal justice system. Under the Code, cases cannot proceed if a suspect does not have legal representation. There were 50,551 persons represented by public defenders during 2003, and 39,505 persons represented by public defenders during the year. The demands placed on the public defender system severely overtaxed its resources.

The new Criminal Procedures Code provides defendants with additional rights that reduce their likelihood of being detained, including strict timelines for actions during the criminal process. The new Code reduced the number of pretrial detainees and established procedures so that detainees will not be held in prison beyond their maximum prison term.

In 2002, the courts were reorganized to divide case management into two systems, one following the old, written administrative court procedures, and the other following the new, oral accusatorial method of the Criminal Procedures Code. By the end of the year, 73 percent of 140,000 pending cases under the previous procedure had been dismissed or resolved. By law, backlogged cases must be resolved by 2006.

The judicial system was staffed by poorly qualified judges; corruption, patronage, and politicization remained problems. The Supreme Court dismissed more than 19 judges on various charges, including corruption, in 2002, the last year for which data was available.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, Correspondence

The Constitution prohibits such actions; however, there is an exception that allows entry at any time in the event of an emergency or to prevent the commission of a crime. There continued to be credible charges that police personnel failed at times

to obtain the needed authorization before entering a private home. Coordination among police, the courts, and the Public Ministry remained weak; however, it improved somewhat with the creation in 2003 of unified centers for police, prosecutors, and public defenders that provide for more efficient operations.

In a number of instances, private and public security forces actively dislodged farmers and indigenous groups who claimed ownership of lands based on land reform laws or ancestral titles to property (see Section 5). Despite reforms to the civil service system, party membership often was necessary to obtain or retain government employment.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the authorities generally respected these rights in practice, with some important exceptions. The Police and Social Order Law restricts demonstrators from using statements that could incite persons to riot.

Some journalists admitted to self-censorship when their reporting threatened the political or economic interests of media owners.

A small number of powerful business magnates with intersecting business interests, political loyalties, and family ties owned many news media. Systemic national problems, such as corruption and endemic conflicts of interest, also limited the development of the news media. The Government has various means to influence news reporting of its activities, such as the granting or denial of access to government officials. In May, all three branches of the Government and several private organizations continued the practice of granting awards, some accompanied by substantial sums of cash, to individual reporters on "Journalists' Day." Observers viewed them as little more than acknowledgments by the granting institutions of perceived services rendered. The Government also had considerable influence on the print media through its ability to grant or withhold official advertisements funded with public monies.

The news media continued to suffer from internal corruption, politicization, and outside influences. Press silence could be bought by many means, including the practice of ministers and other high-ranking government officials hiring journalists as public affairs assistants at high salaries. Payments to journalists to investigate or suppress certain stories continued, although no individual journalist was accused publicly of engaging in the practice. News directors and editors acknowledged their inability to halt the practice.

Responsible journalists on many occasions conducted investigative journalism and presented corruption stories to the public's attention. However, in some cases when the news media attempted to report in depth on national politicians or official corruption, they continued to face obstacles, such as external pressures to desist from their investigations and a lack of access to government information and independent sources.

On February 4, a court convicted journalist Renato Alvarez of defamation and slander against former Congressman Julio Eduardo Sarmiento for reading a document in 2003 on his TV talk show, "Frente a Frente," that listed prominent figures allegedly linked to narcotics trafficking. On February 18, the court sentenced Alvarez to 2 years and 8 months in prison but suspended the sentence and gave him 5 years' probation. In addition, the court ordered Alvarez to pay legal costs and stripped him of some civil and political rights, including the right to vote and the right to run for public office. On March 17, Alvarez's lawyer filed an appeal for annulment before the Supreme Court.

The Maduro Government continued to regularly use the Cadena Nacional, a complete preemption of all television and radio broadcasting, to present presidential addresses. In addition, the President of the National Congress Porfirio Lobo, who is also a presidential candidate, often used the Cadena Nacional.

Because President Maduro had limited ties to the media, some journalists took the opportunity to increase reporting on sensitive topics. In the past, there were credible reports of media owners' repression against individual journalists who criticized the Government, actively criticized freedom of the press, or otherwise reported on issues sensitive to powerful interests in the country. During the year, there were several reports of threats or lawsuits against journalists by powerful persons, including legal cases against journalists for their reports on corruption cases.

On March 12, an unknown assailant shot and injured journalist Edgardo Castro in San Pedro Sula. An investigation was pending at year's end.

In November, Jhonny Lagos, the director of a new small independent monthly newspaper, El Libertador, and his family received anonymous telephone threats.

At year's end, an investigation continued in the November 2003 killing of journalist German Antonio Rivas in Santa Rosa de Copan, Copan Department.

The Government did not restrict Internet access.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. However, police used force to disperse several protests, resulting in a number of injuries. In 2003, the Congress approved a bill that bans membership in street gangs and prescribes prison terms of 3 to 12 years (see Section 4).

During the year, incidents in which protesters, including farmers or teachers, took over roadways in various departments met with police resistance. Police used tear gas and riot troops to clear roadways, injuring a number of persons in some of the incidents.

In December, students protested government threats to close the National University. On December 13, the police used tear-gas to disperse a group of student demonstrators.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The dominant religion, Catholicism, does not affect adversely the religious freedom of others. The Government prohibits immigration of foreign missionaries who practice religions that claim to use witchcraft or satanic rituals.

For a more detailed discussion, see the [2004 International Religious Freedom Report](#).

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice.

Neither the Constitution nor the Penal Code explicitly prohibits exile, but the Government did not use it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Government accepted five persons for refugee status in 2003 and one person through October. In addition, the Government allowed 63 persons in 2003 and 13 through October to stay for humanitarian reasons, although they were not granted refugee status. The Government cooperated with the U.N. High Commissioner for Refugees, the International Office of Migration, and other humanitarian organizations in assisting refugees and asylum seekers.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Citizens choose a president, vice president, and members of the National Congress by free, secret, and direct balloting every 4 years. General elections were held in 2001, and in January 2002, Ricardo Maduro Joest was sworn in as President for a 4-year term.

A new political party may gain legal status by obtaining 20,000 signatures and establishing party organizations in at least half of the country's 18 departments.

Any citizen born in the country or abroad of Honduran parentage may hold office, except for members of the clergy, the armed forces, and the police. The clergy and members of the military or civilian security forces are not permitted to vote.

Under a new electoral law passed in January that came into effect in April, voters will be able to select candidates based not only on their names but also on their photographs. Voters may participate in open primaries for three political parties on February 20, 2005, and general elections in November 2005. The new law limits campaigns to 4 months and a political candidate can run for one political position only. An office of vice president was created and the current system of three presidential designates was eliminated. The law also mandates limited campaign finance reporting requirements. The new electoral law states that voters abroad only will be able to vote for president and vice president in the general election.

The executive and legislative branches were subject to corruption and political influence. There was a widespread perception that government anti-corruption institutions were unwilling or lacked the professional capacity to investigate, arrest, and prosecute those involved in high-level corruption cases, especially cases involving the executive or legislative branches (see Section 1.e). The National Anti-Corruption Council has not been able to make much headway against corruption.

No laws permitted citizens to access information regarding government operations or decisions.

There are no legal impediments to the participation of women or minorities in government and politics; however, opportunities for women to participate in politics remained quite limited, particularly for those seeking elected office. The 2000 Law of Gender Equality mandates that 30 percent of all candidates nominated for public office by recognized political parties be women. The new Electoral Law mandates a quota of no less than 30 percent participation by women officeholders. Congresswomen and women's groups strongly criticized all five parties for their lack of female representation in the congressional slates after the 2001 elections. There were 10 women in the 128-seat legislature, as well as 12 female alternates. There were 9 female justices, 1 of whom was president, on the 17-member Supreme Court; and 1 of the 16 cabinet ministers were women. As of October, 25 of the 298 mayors were women. Despite limited attempts at reform, politics remained a male-dominated hierarchy.

There were few minorities or indigenous people in leadership positions in government or politics. There were no indigenous people or Garifuna (Afro-Caribbean) in the 128-seat legislature, although there was 1 indigenous and 2 Garifuna alternate congressmen.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally cooperated with these groups and were responsive to their views.

In 2003 and during the year, several human rights organizations censured the Government for criticizing their challenges to the constitutionality of the anti-gang law. The human rights organizations alleged that the government's complaint created a perception that they were supporting members of gangs, which resulted in their receiving threats.

On April 26, unknown assailants shot and killed human rights and land activist Marvis Guelio Perez in Cofradia. An investigation into his killing was pending at year's end (see Section 1.a).

On May 27, unknown assailants assaulted Jose Idalecio Murillo, a leader of the Regional Coordination of Popular Resistance (CRRP). An investigation was pending at year's end.

In June, Andres Pavon Murillo, Executive Director of the NGO CODEH, sought and received police protection after being threatened for his human rights work.

On November 4, Juan Almendares Bonilla, Executive Director of the NGO Center for the Prevention, Treatment and Rehabilitation of Torture Victims and Their Relatives (CPTRT) and candidate for the presidential nomination in the Democratic Unification Party primary, said that he had received death threats. On October 26, unknown assailants ransacked the CPTRT office in Tegucigalpa. It was the third assault on the CPTRT office since January 2003.

At year's end, an investigation continued into the 2002 killing of human rights worker Jose Santos Callejas in Atlantida (see Section 1.a).

In 2002, Congress chose Ramon Custodio Lopez to serve a 6-year term as Human Rights Commissioner of the National Human Rights Commission (NHRC), an autonomous government institution. The NHRC director has free access to all civilian and military institutions and detention centers and functions with complete immunity and autonomy. The Government generally cooperated with the NHRC and invited the Human Rights Ombudsman to work on interagency commissions dealing with rule of law issues. On September 13 the Government established the Interinstitutional Commission for Human Rights, constituting representatives of relevant government ministries, and inviting the Public Ministry and Supreme Court to participate. Custodio objected to the creation of the new commission as a potentially competing organization.

The Congress has a Human Rights Committee; however, it did not play a significant role in the formulation of policy.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution bans discrimination based on race, sex, or class; however, in practice, the political, military, and social elites generally enjoyed impunity under the legal system.

Women

Violence against women remained widespread. The Penal Code classifies domestic violence and sexual harassment as crimes, with penalties of 2 to 4 years' and 1 to 3 years' imprisonment, respectively; however, the Government struggled to enforce the law effectively during the year. From January-December, the Public Ministry received 3,184 reports of alleged domestic violence in the Tegucigalpa office alone. Of these reports, 790 became legal cases, with 592 convictions and 26 dismissals. There were

171 reports of alleged "intra-family violence," a more serious crime under the law, with 194 cases being prosecuted, and 12 reports of rape during the year, with 13 cases being prosecuted.

The Law Against Domestic Violence, intended to strengthen the rights of women and increase the penalties for crimes of domestic violence, does not impose any fines, and the only sanctions are community service and 24-hour preventive detention if the aggressor is caught in the act. The Penal Code includes the crime of intrafamily violence and disobeying authorities, in the case that an aggressor does not obey a restraining order. Three years' imprisonment per incident is the maximum sentence. Since the Government began in 2002 to fund special courts to hear only cases of domestic violence, more cases have been resolved.

The Government worked with women's groups to provide specialized training to police officials on enforcing the Law Against Domestic Violence. There were few shelters specifically for battered women, with only two offering physical shelter. An NGO operated 1 shelter in Tegucigalpa that could accommodate 20 women and their families. Six private centers for battered women offered legal, medical, and psychological assistance but not physical shelter.

The penalties for rape range from 3 to 9 years' imprisonment, and the courts enforced these penalties in practice. All rapes are considered public crimes, so a rapist can be prosecuted even if the victim does not want to press charges.

The law does not prohibit adult prostitution, but child prostitution is illegal; the law prohibits promoting or facilitating the prostitution of adults.

Women were trafficked for sexual exploitation and debt bondage (see Section 5, Trafficking).

The law prohibits sexual harassment in the workplace; however, it continued to be a problem.

Women were represented in at least small numbers in most professions, but cultural attitudes limited their career opportunities. Under the law, women have equal access to educational opportunities and slightly more girls complete grade school and high school than boys, according to the National Statistics Institute. The law requires employers to pay women equal wages for equivalent work, but employers often classified women's jobs as less demanding than those of men to justify paying them lower salaries. Women often work in the low-status, low-pay, informal occupations, such as domestic work. The majority of the female labor force is in the informal sector where jobs are poorly remunerated and where there are no regulations or protections.

Despite legal protections against such practices, workers in the textile export industries reported that they were required to take preemployment pregnancy tests. Pregnant employees and new mothers for 3 months after the birth of their child have specific protections under labor law to prevent unjust firings (see Section 6.e.). Women are eligible for 4 weeks of paid maternity leave prior to the birth and 6 weeks of paid maternity leave after the birth.

Women are treated equally under the law with respect to property rights in divorce cases.

The Government maintained a cabinet-level position directing the National Women's Institute, which develops women and gender policy. The Inter-Institutional Technical Committee on Gender supported gender units in five government ministries, and there was a special working women's division in the Ministry of Labor to coordinate government assistance programs that have a gender focus and that are targeted for women. There are many NGOs active on a wide range of women's issues, including the Center for the Study of Women-Honduras which has been active on trafficking in persons, commercial sexual exploitation, domestic workers, and other key issues.

Children

The Government was committed to children's rights and welfare.

The Government provided free, universal, and compulsory education through the age of 13; however, in May, the National Statistics Institute's household survey estimated that as many as 125,000 children aged 7 through 12 failed to receive schooling of any kind; of these, almost 10,000 may never attend primary school. Older boys often drop out to assist their family by working. The May household survey also reported that women have an average of 5.6 years of primary education and men have an average of 5.3 years of primary education. The educational system faced fundamental problems: High dropout rates, low enrollment at the secondary level, unbalanced distribution of government spending, teacher absenteeism, and low quality of education in the classroom. By the year's end the Government had not taken measures to address these problems.

The Government allocated 14.2 percent of its total expenditures (including foreign assistance) to the health sector (including salaries of doctors and medical workers) during the year. According to the most recent data available, a 2001 national survey on epidemiology and family health, infant mortality (deaths under 1 year of age) was 34 per 1,000 live births, and child mortality (deaths under 5 years of age) was 45 per 1,000 live births. Of children ages 1 to 5, 32.9 percent were malnourished.

The 1996 Code of Childhood and Adolescence established prison sentences of up to 3 years for persons convicted of child abuse. From January to August, the Public Ministry received 390 reports of alleged crimes against children, including child

abuse, in the Tegucigalpa and San Pedro Sula offices. In 2003, the Public Ministry reported that 205 cases of child abuse were tried during the year.

Trafficking in children for commercial sexual exploitation and child prostitution were problems (see Section 5, Trafficking).

Child labor was a problem (see Section 6.d.).

The Government was unable to improve the living conditions or reduce the numbers of street children and youth (see Sections 1.a. and 1.c.). The Government and children's rights organizations estimated the number of street children at 20,000, only half of whom have shelter on any given day. Many street children were sexually molested or exploited, and some were addicted to drugs, alcohol, and glue sniffing. The Tegucigalpa city administration operated 12 temporary shelters with a total capacity of 240 children. Casa Alianza operated 3 shelters for 160 children, 1 for victims of commercial sexual exploitation, 1 for street children, and 1 for children with drug and alcohol problems.

Despite continued attention to the problem by the Government, abuse of youth and children in poor neighborhoods and in gangs was a serious problem. Both police and members of the general population engaged in violence against poor youth and children; some of these children were involved in criminal activities. Estimates of the extent of the problem varied. According to the Casa Alianza, press reports indicated that 2,520 children and young adults (age 23 and under) were killed between 1998 and the end of the year. In 2003, the Minister of Government reported that 800 children were killed from 1988 to the end of 2003.

Human rights groups alleged that individual members of the security forces worked with civilian (including vigilante) groups and used unwarranted lethal force against supposed habitual criminals or suspected gang members, as well as against other youths not known to be involved in criminal activity. Casa Alianza provided information of suspected police involvement in 15 cases in 2002, 13 cases in 2003, and 2 additional cases during the year. In March, Juan Almendares, Executive Director of the NGO CPTRT, estimated that government agents were responsible for 13 to 22 percent of the killings. Several groups and families of the victims pushed for investigations into specific incidents, while others claimed to have provided public prosecutors with evidence of collusion between police elements and business leaders. The Ministry of Public Security, the focus of human rights criticism, publicly denied accusations of the whole police force's involvement in the killings, although it acknowledged that individual police had been investigated for participation in them. CODEH also conducted human rights training with the military during the year.

There was some improvement in the government's ability to investigate and prosecute suspects in the killings of children and youth during the year. From July 2003 through December, the Special Investigative Unit on child killings had received 660 cases, 112 of which were forwarded to the Public Ministry for prosecution with the remaining 548 under investigation. Of the 112 cases forwarded to the Public Ministry, gang members were thought to be responsible in 54 percent of the cases, individuals in 30 percent, and police or other government officials in 16 percent. The Public Ministry prosecuted and convicted 12 defendants in seven cases involving nine victims, four of them minors.

In December, the IACHR Special Rapporteur for Children Paulo Sergio Pinheiro and Special Rapporteur for Prisoners Florentin Melendez visited the country to review the situation of gangs, including extrajudicial, arbitrary, and summary killings of youths and children, and prison deaths of gang members. The IACHR Special Rapporteur for Children had previously visited the country in September 2002 to review the situation. In September 2002, the U.N. Special Rapporteur on Extrajudicial, Arbitrary, and Summary Executions released a report based on her 2001 visit that claimed that security forces were involved in covering up their involvement in some of the summary killings of youth and children, and that some of the killings involved police.

A 2003 law outlawing gang membership prescribes prison terms ranging from 3 to 12 years, depending on the individual's level of involvement and seniority. In 2003, human rights organizations criticized the law and filed a brief before the Supreme Court arguing that the law is unconstitutional, but the Court dismissed the brief (see Section 4). As of August, 1,683 persons had been detained for illicit association under the law. Human rights organizations continued to criticize the law and its implementation. There are an estimated 30-40,000 persons, many of them minors, who belong to gangs in the country. Membership is primarily confined to the large urban centers of Tegucigalpa and San Pedro Sula. The Mara Salvatrucha (MS 13) and the Mara 18 are the largest and most violent of the gangs. Together these two gangs account for roughly 40 percent of gang membership countrywide and a large amount of the violent crime.

Trafficking in Persons

The Legal Code includes provisions that prohibit trafficking in persons; however, there is no comprehensive anti-trafficking law. There were reports that persons were trafficked to, from, and within the country.

Assorted penal, child exploitation, and immigration statutes criminalize trafficking and enable the Government to prosecute traffickers. The law prohibits trafficking in persons and provides for sentences of between 6 and 9 years' imprisonment; the penalty is increased if the traffickers are government or public employees, or if the victim suffers "loss of liberty" or is killed. The Government and Justice Ministry, through its General Directorate for Population and Migration (DGPM), is responsible for enforcing the country's immigration laws although the DGPM does not have arrest powers. Many of the government's anti-trafficking measures were conducted in the context of combating the illegal movement of migrants. Corruption, a lack of resources, and weak police, Public Ministry, and court systems hindered law enforcement efforts. Corruption was a serious

problem that made obtaining court convictions difficult. Some officials were investigated and dismissed for corruption.

In October, a court convicted and sentenced a foreign citizen to 47 years' imprisonment for commercial sexual exploitation of five girls in Danli.

On October 21, a court convicted Roger Galindo, Marlene de Jesus Aguilar Galindo, and Sabina Cepeda of alien smuggling and trafficking in persons for running a prostitution ring uncovered in an April 2002 raid in Texas. Sentencing was pending at year's end. Maria Isabel Cruz Zamora was still a fugitive with a pending arrest warrant.

In October 2003, police arrested six persons in Tocoa for trafficking in persons and money laundering, and charged two persons with aggravated trafficking for sexual exploitation of their victims. The men were in jail, and the women under house arrest at year's end. Prosecution of these cases was ongoing at year's end.

Canadian authorities cooperated with the Government during the year to identify and repatriate the minors. The Government continued to work with the Government of Mexico to repatriate over 200 minors working as prostitutes in southern Mexico. According to a local children's rights group, 408 children had been reported missing from 1990 to February 2003. The Special Prosecutor for Children participated in a regional meeting in Costa Rica of Prosecutors for Children's Issues to discuss regional cooperation against trafficking and commercial sexual exploitation. The Special Prosecutor for Children worked with her counterpart in Guatemala on locating and repatriating children in Guatemala that were trafficking victims.

The country was a source and transit point for trafficking for sexual and labor exploitation. Most victims were young women and girls, who are trafficked to Guatemala, Belize, El Salvador, Mexico, the United States, and Canada. Reports from Casa Alianza in 2000 asserted that approximately 250 children in Canada were coerced into prostitution or the sale of illicit narcotics.

Women and children were trafficked internally, most often from rural to urban settings. The commercial sexual exploitation of children was a serious problem, and child prostitution was a problem in tourist and border areas of the country. Casa Alianza estimated in December 2003 that there were approximately 8,335 children who were victims of some form of commercial sexual exploitation. The Special Prosecutor for Children conducted operations jointly with the police, the Honduran Institute for Children and the Family (IHNFA), judges, and Casa Alianza, to rescue victims and arrest and prosecute those responsible for these victims' exploitation.

The Government, in conjunction with UNICEF, conducted a public information campaign against trafficking and commercial sexual exploitation, and raised awareness of children and women's rights and risks associated with illegal migration. The Government and NGOs held seminars on the prevention and eradication of the commercial sexual exploitation of children and trafficking in women and children in Tegucigalpa, La Ceiba, and Valle in 2003, and in San Pedro Sula, Santa Rosa de Copan, Puerto Cortes, and Tela during the year. Casa Alianza also conducted a public information campaign against commercial sexual exploitation of children. A national commission to combat child labor abuses and reincorporated working minors into educational programs. Several government agencies, international organizations, and NGOs have developed a national plan against the sexual exploitation of children.

The Government did not provide any assistance to foreign victims of trafficking, nor does it provide funding for NGOs helping victims. In July, Immigration authorities inaugurated a shelter for third country illegal immigrants pending deportation to their home countries. The shelter was built by the International Organization for Migration using assistance from an international donor. The Government worked with the ILO's International Program to Eradicate Child Labor (IPEC) and NGOs to provide training to the press on trafficking in persons. Two centers in Tegucigalpa and San Pedro Sula assisted citizens deported from other countries to relocate in the country. The centers' activities continued during the year, with the assistance of several international organizations. Consular officials are aware of trafficking issues when abroad. On April 22, Casa Alianza signed an agreement with the Ministry of Government and Justice and the Directorate of Immigration to protect children who are victims of trafficking/commercial sexual exploitation outside the country. As part of the agreement, the Government committed to inform Casa Alianza about any repatriation of minors.

Persons with Disabilities

There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services; however, there is no specific statutory or constitutional protection for them. It is illegal for an employer to discriminate against a worker based on disability. There is no legislation that requires access by persons with disabilities to government buildings or commercial establishments.

Indigenous People

Some 490,000 persons, constituting 9 percent of the general population, were members of indigenous and Afro-Caribbean ethnic groups. The Miskitos, Tawahkas, Pech, Tolupans, Lencas, Chortis, Nahuatl, Islanders, and Garifunas lived in 362 communities and generally had little or no political power to make decisions affecting their lands, cultures, traditions, and the allocation of natural resources. Most indigenous land rights are communal, providing land use rights to individual members of the ethnic group. Indigenous and ancestral lands often are defined poorly in documents dating back to the mid-19th century. Indigenous and nonindigenous communities criticized the government's exploitation of timber; however, government policy over

natural resources changed in 2002 and reportedly included greater local participation.

Land disputes were common among all sectors of society; however, the lack of clear title and property boundaries of indigenous land claims often lead to conflicts between such groups as landless mestizo farmers who clear and occupy land for subsistence farming, local and national elites who encroach on indigenous land to engage in illegal logging, and various government entities (see Sections 1.a. and 1.f.). In 2002, 12 Tolupan were killed in Yoro department in separate incidents because they opposed illegal logging and usurpation of their ancestral lands. Tolupan leaders implicated sawmill owners, police, district attorneys, and the governmental Honduran Forest Development Corporation in these killings. These cases were still pending at year's end. The Government worked with various indigenous groups on management plans for public and ancestral lands that they occupy. Security officials and private landowners were accused of participating in approximately a dozen killings of Lencas and Garifunas in conflicts over indigenous land claims.

The courts commonly deny legal recourse to indigenous groups and often show bias in favor of nonindigenous parties of means and influence. Failure to obtain legal redress frequently lead indigenous groups to attempt to regain land through invasions of private property, which usually provoked the authorities into retaliating forcefully. The Government was somewhat responsive to indigenous land claims; however, numerous cases remained unresolved because of conflicting claims by influential individuals.

In 2002, the INA reduced its issuance of titles to indigenous groups because of lack of funds to compensate private owners and expected changes in land use laws. The INA continued to play a weak role in mediating land claims of indigenous and farmer groups.

Human rights organizations, including Amnesty International (AI), complained about alleged poor treatment, police beatings, and denial of adequate medical care for indigenous brothers Marcelino Miranda Mendoza and Leonardo Miranda Mendoza, members of the Civic Council of Indigenous and Popular Organizations of Honduras (COPINH). Jailed in January 2003, the brothers were later convicted and in December 2003 sentenced to 29 years in jail in Gracias, Lempira for the 2001, murder of Juan Reyes Gomez and the attempted murder of Demetrio Reyes. On November 11, the Supreme Court overturned the 25-year sentence for Gomez's murder, and ordered the appeals court to reconsider the case.

Other Societal Abuses and Discrimination

In September, AI alleged that thousands of homosexual and transgender persons in the country faced discrimination and attacks on a daily basis.

On August 27, the Government granted legal recognition to three NGOs working on homosexual issues: the Violet Collective, the San Pedro Gay Community, and Kukulcan.

In September 2003, AI reported that approximately 200 homosexual and transsexual workers were killed between 1991-2003. In July 2003, two policemen allegedly shot and killed Eric David Yanez, a transgender member of the NGO San Pedro Sula's Gay Community. The investigation into the killing was pending at year's end.

HIV positive persons were at risk of discrimination. In 2002, UNAIDS estimated the overall HIV prevalence rate at 1.9 percent, although available data on HIV/AIDS incidence was underreported. The male to female ratio of HIV infection was 1.2:1. UNAIDS estimated there were at least 63,000 adults living with HIV and almost 14,000 orphans in the country due to HIV/AIDS related deaths. An estimated 30 to 50 percent of total AIDS cases are still not reported. According to the Ministry of Health in July, 21,196 HIV positive cases had been reported, with 16,346 AIDS cases (9,580 men and 6,765 women).

Section 6 Worker Rights

a. The Right of Association

Workers exercised the legal right to form and join labor unions. Approximately 7.3 percent of the work force is unionized. The International Labor Organization (ILO) has noted that various provisions in the labor law restrict freedom of association, including the prohibition of more than 1 trade union in a single enterprise, the requirement of more than 30 workers to constitute a trade union, the requirement that trade union organizations must include more than 90 percent Honduran membership, the prohibition on foreign nationals holding union offices, the requirement that union officials must be employed in the economic activity of the business the union represents, and the restriction on unions in agricultural businesses with less than 10 employees.

A number of private firms have instituted "solidarity" associations to provide credit and other services to workers and managers who are members of the associations. Representatives of most organized labor groups criticized these associations, asserting that they do not permit strikes, have inadequate grievance procedures, are meant to displace genuine, independent trade unions, and are employer-dominated.

While the Labor Code prohibits retribution by employers for trade union activity, it was a common occurrence. Some employers threatened to close unionized companies and harassed workers seeking to unionize, in some cases dismissing them outright. Despite legal protections, workers were most vulnerable for being fired while forming unions. Some foreign companies closed

operations when notified that workers seek union representation.

The Ministry of Labor can reach administrative decisions on allegations of unfair dismissal and fine companies, but only a court can order reinstatement of workers. The labor courts routinely considered hundreds of appeals from workers seeking reinstatement and back wages from companies that fired them for engaging in union organizing activities. Workers often accepted dismissal with severance pay rather than wait for a court resolution due to the length of this process. Lack of effective reinstatement of workers was a serious problem. Once a union is recognized, employers dismiss relatively few workers for union activity.

The Labor Code prohibits blacklisting; however, there was credible evidence that blacklisting occurred in maquilas. A number of maquiladora workers who were fired for union activity have reported being hired for 1 or 2 weeks and then being let go with no explanation. Maquiladora employees reported seeing computer records that included previous union membership in personnel records. Some employers informed previously unionized workers that they were unemployable because of their previous union activity.

When a union is formed, its organizers must submit a list of founding members to the Ministry of Labor as part of the process of obtaining official recognition. However, before official recognition is granted, the Ministry of Labor must inform the company of the impending union organization. At times, companies receive the list illegally from workers or from Labor Ministry inspectors willing to take a bribe. The Ministry of Labor did not always provide effective protection to labor organizers. In 2002, the Ministry of Labor improved its administrative procedures to reduce unethical behavior of its officials regarding union organizing. There were fewer reports of inspectors selling the names of employees involved in forming a union to the management of the company compared with previous years. Once a union is registered, its board of directors has specific protections under the law to prevent illegal firings.

b. The Right to Organize and Bargain Collectively

The law provides for the right to organize and to bargain collectively, and the Government protected this right in practice. By law, an employer must begin collective bargaining once workers establish a union; however, employers often refuse to bargain with a union.

The Constitution provides for the right to strike, and workers exercised this right in practice. The law prohibits strikes in essential services and petroleum production, refining, transport, and distribution. The ILO criticized the Civil Service Code's denial of the right to strike to all government workers, other than employees of state-owned enterprises. Nonetheless, civil servants often engage in illegal work stoppages without experiencing reprisals. The ILO also criticized the broad restriction on strikes in petroleum-related industries. The ILO noted that labor federations and confederations are prohibited from calling strikes, and that a two-thirds majority of the votes of the total membership of the trade union organization is required to call a strike, rather than a simple majority; the ILO asserted that these requirements restrict freedom of association.

The same labor regulations apply in the export processing zones (EPZs) as in the rest of private industry, except that the law prohibits strikes. There were approximately 20 EPZs. Each EPZ provides space for between 4 and 10 companies. At year's end, approximately 60 of the country's 226 maquiladora firms were unionized. Approximately 13 percent of the 131,000 maquiladora work force is unionized, according to October statistics from the Ministry of Labor.

In the absence of unions and collective bargaining, the management of several plants in free trade zones instituted solidarity associations that, to some extent, function as "company unions" for the purposes of setting wages and negotiating working conditions. Others used the minimum wage to set starting salaries and adjust wage scales by negotiating with common groups of plant workers and other employees, based on seniority, skills, categories of work, and other criteria (see Section 6.e.).

Labor leaders accused the Government of allowing private companies to act contrary to the Labor Code. They criticized the Ministry of Labor for not enforcing the Labor Code, for taking too long to make decisions, and for being timid and indifferent to workers' needs. Industry leaders, in turn, contended that the obsolete and cumbersome Labor Code discouraged foreign investment and required significant amendment. The Ministry of Labor sought to address these deficiencies by obtaining increased funding in the government's budget in 2002 and 2003, by dismissing or transferring Ministry of Labor employees whose performance was unsatisfactory, by strengthening regional offices to facilitate worker access to Ministry of Labor services, and by continuing a painstaking, ongoing review of the Labor Code since 1995. During the year, the Ministry of Labor continued its work to strengthen a special maquiladora inspectorate office and an office for female workers.

There were 105 general labor inspectors; however, the Government acknowledged that it did not adhere completely to international labor standards. In conjunction with other Central American nations, the country in 1997 agreed to fund a regional program to modernize the inspection and labor management functions of all regional labor ministries. In August 2003, the Ministry of Labor issued a legal notice that clarified the obligation of employers to grant access to labor inspectors.

c. Prohibition of Forced or Compulsory Labor

The Constitution and the law prohibit forced or compulsory labor, including by children; however, there were credible allegations of compulsory overtime at maquiladora plants, particularly for women, who made up an estimated 65 percent of the workforce in

the maquiladora sector according to October statistics from the Ministry of Labor. Prison labor can be compulsory for convicted criminals.

d. Prohibition of Child Labor and Minimum Age for Employment

The Constitution and the Labor Code prohibit the employment of minors under the age of 16, although children who are at least 14 years of age may work with parental and Ministry of Labor permission; however, child labor was a significant problem. The Children's Code prohibits a child under 14 years of age from working, even with parental permission, and establishes prison sentences of 3 to 5 years for persons who allow children to work illegally. This law was not enforced effectively. An employer who legally hires a 14- to 15-year-old must certify that the child has finished, or is finishing, compulsory schooling. The Ministry of Labor grants a limited number of work permits to 14- to 15-year-old children each year. Minors are prohibited from working in undersea fishing or outside of the country's borders. Minors 14 to 15 years old are allowed to work only 4 hours daily and 20 hours weekly; 16- to 17-year-olds can work 6 hours daily and 30 hours weekly. The Labor Code prohibits night work and overtime for minors under age 16, and also requires that employers in areas with more than 20 school-aged children on their farm, ranch, or business must provide a location for a school.

The Ministry of Labor did not enforce effectively child labor laws outside the maquiladora sector. Violations of the Labor Code occurred frequently in rural areas and in small companies. Significant child labor problems existed in family farming, agricultural export (including the melon, coffee, and sugarcane industries), and small-scale services and commerce. The most recent survey by the Honduran National Institute of Statistics in 2002 determined that approximately 367,405 children (or 16 percent of children) work illegally, the majority for their own families, in the informal sector, and in rural areas. Of the children, 74 percent are boys, 69 percent live in rural areas, 56 percent work in agriculture, and 24.4 percent work in commerce. Of these children, 61 percent work unpaid for their families and 28 percent are paid for work outside their families. Many of these children work out of economic necessity alongside other family members. Boys between the ages of 13 and 18 worked as lobster divers with little safety or health protection. Children who worked on melon and sugarcane farms were exposed to pesticides and long hours.

The NGO Casa Alianza documented more than 1,000 minors in Honduras that were the victims of commercial sexual exploitation in 2003.

There were isolated cases of the employment of children under the legal working age in the maquiladora sector. (Younger children sometimes obtained work permits by fraud or purchase forged permits.)

The Ministry of Labor continued a campaign to increase industry awareness on the worst forms of child labor.

In 2002, the Government swore in new members of the interagency National Commission for the Gradual and Progressive Eradication of Child Labor. The ILO/IPEC continued its programs to eradicate the worst forms of child labor in melon and coffee production. ILO/IPEC also had programs combating the commercial sexual exploitation of children, children working as lobster divers, children working in the garbage dump of Tegucigalpa, and child domestic workers. In addition, an international donor funded an 18-month pilot project, which began in 2003, with an NGO to help provide education to children working or at risk of working in commercial agriculture. In September, an international donor launched a new regional program to combat exploitative child labor in the region and strengthen government and civil society's capacity to address the educational needs of working children. The Ministry of Education developed an Education for All plan to increase access to preschool and primary education; improve the quality of preschool and primary education by encouraging new teaching methods, improving curriculum, and reducing drop-out rates, repetition, and desertion rates; and increase student achievement.

e. Acceptable Conditions of Work

The law provides for the establishment of a minimum wage. On April 1, minimum wages that were renegotiated by the Government, the private employers' association, and the three labor confederations went into effect for the year. Unlike past years when the raise was backdated to January, the raise was not retroactive. The daily minimum wage scale is broken down by sector and by size of business: small (1-15 workers) and large (16 or more workers). The scale ranges from \$2.97 (54.7 lempiras) for workers in small agriculture to \$4.88 (89.7 lempiras) for workers in financial/insurance companies and workers in export-oriented businesses (including maquilas and commercial agriculture such as tobacco, coffee, bananas, and seafood). Workers in areas such as construction, services, mining, transportation, communication, etc., had minimum wages in between these two rates. The raise was approximately 12 percent for workers in small agriculture, but approximately 9 percent for most other workers. The inflation rate in 2003 was 6.8 percent.

All workers are entitled to a bonus equivalent to a month's salary in June and December every year. The Constitution and the Labor Code stipulate that all labor must be paid fairly; however, the Ministry of Labor lacked the personnel and other resources for effective enforcement. The minimum wage did not provide a decent standard of living for a worker and family.

The law prescribes a maximum 8-hour workday, a 44-hour workweek, equivalent to 48 hours' wages, and at least one 24-hour rest period for every 6 days of work. The Labor Code provides for a paid vacation of 10 workdays after 1 year, and of 20 workdays after 4 years. The law requires overtime payment for hours in excess of the standard. There are prohibitions on excessive compulsory overtime. However, employers frequently ignored these regulations due to the high level of unemployment and underemployment and the lack of effective enforcement by the Ministry of Labor. Foreign workers enjoyed

equal protection under the law, although the process for a foreigner to obtain a work permit from the Ministry of Labor was cumbersome.

The Ministry of Labor is responsible for enforcing national occupational health and safety laws, but does not do so consistently or effectively. During the year, the Ministry of Labor received technical assistance, training, and equipment from an international donor to improve its regulatory capacity. There were 14 occupational health and safety inspectors throughout the country. The informal sector, comprising more than 52 percent of all employment according to the Ministry of Labor, was regulated and monitored poorly. Worker safety standards also were poorly enforced in the construction industry. Some complaints alleged that foreign factory managers failed to comply with the occupational health and safety aspects of Labor Code regulations in factories located in the free trade zones and in private industrial parks (see Section 6.b.). There is no provision allowing a worker to leave a dangerous work situation without jeopardy to continued employment.